



**California Revenue and Taxation Code (excerpts):****6487.05. Deficiency determination, unregistered out-of-state retailers.**

- (a) Notwithstanding Section 6487, the period during which a deficiency determination may be mailed to a qualifying retailer is limited to three years after the last day of the calendar month following the quarterly period for which the amount is proposed to be determined. For purposes of this section, a "qualifying retailer" is a retailer that meets all of the following conditions:
- (1) The retailer is located outside this state, and has not previously registered with the board.
  - (2) The retailer is engaged in business in this state, as defined in Section 6203.
  - (3) The retailer voluntarily registers with the board.
  - (4) The retailer has not been previously contacted by the board or its agent regarding the provisions of Section 6203.
  - (5) As determined by the board, the retailer's failure to file a return or failure to report or pay the tax or amount due required by law was due to reasonable cause and was not a result of negligence or intentional disregard of the law, or because of fraud or an intent to evade the provisions of this part.
- (b) If the board or its designee finds that the retailer's failure to make a timely return or payment is due to reasonable cause and circumstances beyond the retailer's control, and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the retailer shall be relieved of the penalties imposed pursuant to this part. Any retailer seeking relief of penalty shall file a statement under penalty of perjury setting forth the facts upon which he or she bases his or her claim for relief.

**6203. Collection by retailer**

Except as provided by Sections 6292 and 6293, every retailer engaged in business in this state and making sales of tangible personal property for storage, use, or other consumption in this state, not exempted under Chapter 3.5 (commencing with Section 6271) or Chapter 4 (commencing with Section 6351), shall, at the time of making the sales or, if the storage, use, or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use, or other consumption becomes taxable, collect the tax from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the board.

As respects leases constituting sales of tangible personal property, the tax shall be collected from the lessee at the time amounts are paid by the lessee under the lease.

"Retailer engaged in business in this state" as used in this section and Section 6202 means and includes any of the following:

- (a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business.
- (b) Any retailer having any representative, agent, salesperson, canvasser, independent contractor, or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, installing, assembling, or the taking of orders for any tangible personal property.
- (c) As respects a lease, any retailer deriving rentals from a lease of tangible personal property situated in this state.
- (d) Any retailer soliciting orders for tangible personal property by means of a telecommunication or television shopping system (which utilizes toll free numbers) which is intended by the retailer to be broadcast by cable television or other means of broadcasting, to consumers located in this state.
- (e) Any retailer who, pursuant to a contract with a broadcaster or publisher located in this state, solicits orders for tangible personal property by means of advertising that is disseminated primarily to consumers located in this state and only secondarily to bordering jurisdictions.
- (f)
  - (1) Any retailer soliciting orders for tangible personal property by mail if the solicitations are substantial and recurring and if the retailer benefits from any banking, financing, debt collection, telecommunication, or marketing activities occurring in this state or benefits from the location in this state of authorized installation, servicing, or repair facilities.
  - (2) This subdivision shall become operative upon the enactment of any congressional act that authorizes states to compel the collection of state sales and use taxes by out-of-state retailers.
- (g) Any retailer having a franchisee or licensee operating under its trade name if the franchisee or licensee is required to collect the tax under this section.
- (h) Any retailer who, pursuant to a contract with a cable television operator located in this state, solicits orders for tangible personal property by means of advertising which is transmitted or distributed over a cable television system in this state.
- (i) Notwithstanding Section 7262, a retailer specified in subdivision (d), (e), (f), (g), or (h) above, and not specified in subdivision (a), (b), or (c) above, is a "retailer engaged in business in this state" for the purposes of this part and Part 1.5 (commencing with Section 7200) only.
- (j)
  - (1) For purposes of this section, "engaged in business in this state" does not include the taking of orders from customers in this state through a computer telecommunications network located in this state which is not directly or indirectly owned by the retailer when the orders result from the electronic display of products on that same network. The exclusion provided by this subdivision shall apply only to a computer telecommunications network that consists substantially of on-line communications services other than the displaying and taking of orders for products.
  - (2) This subdivision shall become inoperative upon the earlier of the following dates:
    - (A) The operative date of provisions of a congressional act that authorize states to compel the collection of state sales and use taxes by out-of-state retailers.
    - (B) The date five years from the effective date of the act adding this subdivision.